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OFFICE OF PETITIONS

In re Application of Beadle et al. :
Application No. 09/977,362 :
Filing Date: October 16, 2001 :
Attorney Docket No. HAR62 001 :

Decision on Application
For Patent Term Adjustment

This is a decision in response to the "Request for Reconsideration of Patent Term Adjustment" filed February 15, 2006. The paper requests correction of the patent term adjustment from seven hundred and fifty-eight (758) days to nine hundred and forty (940) days.

The application for patent term adjustment is **granted**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the February 10, 2006 Notice of Allowance is nine hundred and forty (940) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 10, 2006, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 758 days. In response, applicants timely filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 C.F.R. § 1.18(e). Applicants request that the patent term adjustment be corrected to 940 days.

Applicants assert that the Office's delay pursuant to 37 C.F.R. § 1.703(a)(2) should be calculated as 182 days, not 0 days.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 758 days is incorrect.

The Office mailed a Notice of Allowance on July 5, 2005, less than four months after the applicant filed a reply under 35 U.S.C. 1.111. However, the Office had failed to enter a change of address and the Notice was mailed to an incorrect address. A "corrected" notice of allowance was mailed to the correct address on February 10, 2006. The record supports a conclusion that this re-mailing was due to an error on the part of the Office in mailing the first notice of allowance to applicant. Thus, the re-mailing of the notice of allowance does constitute a delay by the Office in the issuance of the patent within the meaning of 35 U.S.C. 154(b).

The Office's delay should be calculated using the February 10, 2006 date. Applicants' previous reply was received on April 12, 2005. The period of adjustment is 182 days, the number of days

in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed, April 12, 2005, and ending on the date of mailing of an action to the proper address under 35 U.S.C. 132, February 10, 2006.

Applicants assert that no circumstances exist within the prosecution of this application that may be considered as resulting in a failure to engage in reasonable efforts to conclude examination of the present application.

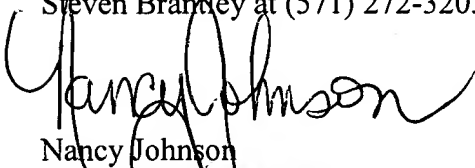
Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

In view thereof, the correct patent term adjustment at the time of the mailing of the Notice of Allowance is 940 days (758 + 182).

The \$200 fee set forth in 37 CFR 1.18(e) has been charged to petitioner's deposit account as authorized in the request. The fee is required and will not be refunded.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment shown on the patent (and in the Issue Notification mailed approximately three weeks prior to issuance) will include any additional patent term accrued pursuant to sections 1.702(a)(4) and 1.703(b).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brandley at (571) 272-3203.

A handwritten signature in black ink, appearing to read "Nancy Johnson", is written over the typed name.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised Pair Screen

Day : Friday
Date: 4/14/2006

PALM INTRANET

Time: 16:21:36

PTA Calculations for Application: 09/977362

Application Filing Date:	10/16/2001	PTO Delay (PTO):	758
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	940
PTO Delay Adjustment:	182		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
34	04/14/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	182		
31	02/10/2006	MAIL CORRECTED NOTICE OF ALLOWANCE			
30	02/09/2006	CORRECTED NOTICE OF ALLOWANCE			
29	02/08/2006	CORRESPONDENCE ADDRESS CHANGE			
28	07/11/2005	EXPORT TO INITIAL DATA CAPTURE			
27	07/05/2005	MAIL NOTICE OF ALLOWANCE			
26	07/05/2005	MAIL EXAMINER'S AMENDMENT			
25	06/28/2005	ISSUE REVISION COMPLETED			
24	06/28/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
23	06/22/2005	EXAMINER'S AMENDMENT COMMUNICATION			
22	06/15/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
21	06/22/2005	NOTICE OF ALLOWABILITY			
20	06/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	04/24/2005	DATE FORWARDED TO EXAMINER			
18	04/12/2005	RESPONSE AFTER NON-FINAL ACTION			
17	10/12/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	11/12/2004	PRELIMINARY AMENDMENT			
15	01/12/2005	MAIL NON-FINAL REJECTION	758		-1
14	01/10/2005	NON-FINAL REJECTION			
13	12/13/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	11/12/2004	WORKFLOW INCOMING AMENDMENT IFW			
11	11/01/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	03/01/2002	REFERENCE CAPTURE ON IDS			

9	12/20/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	03/01/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	03/29/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	01/29/2002	TRANSFER INQUIRY TO GAU			
5	11/19/2001	APPLICATION DISPATCHED FROM OIPE			
4	11/15/2001	CORRESPONDENCE ADDRESS CHANGE			
3	11/15/2001	CORRESPONDENCE ADDRESS CHANGE			
2	10/24/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/16/2001	INITIAL EXAM TEAM NN			

Search Another: Application#

Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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